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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/619,295	07/14/2003	Michael Lee	NKTZ 2 00061	6308

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EXAMINER

BLAU, STEPHEN LUTHER

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 08/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/619,295	Applicant(s) LEE, MICHAEL	
	Examiner Stephen L. Blau	Art Unit 3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 June 2006.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6,7,9,10,20,22,23,26 and 27 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 6,7,9,10,20,22,23,26 and 27 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claim 9 is objected to because of the following informalities: It depends on a canceled claim (Claim 21). Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 9 is rejected under 35 U.S.C. 102(b) as being anticipated by Takesue (6,319,152).

Takesue disclose a polyurethane elastomer (Abstract).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 6-7, 10, 20, 22-23, and 26-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Elkins (D244,558) in view of Elkins (4,128,242), Viollaz, and Motomiya.

Elkins (D244,558) discloses head having a blade surface and a muscle back surface having an extra mass portion (Fig. 6), a muscle back surface having an upper ledge that generally follows the contour of the top edge (Figs. 1-2), a blade surface being near a top edge and substantially parallel to the front face (Figs. 1-2, and 6-7), a muscle back portion covering at least half of the surface area of the rear surface (Fig. 1), and a thin sole and the distance between the front surface and the rear surface adjacent the sole is less than the distance between the front surface adjacent the top edge in the form of the lower edge ends with a point (Fig. 6).

Elkins (D244,558) lacks a cavity disposed in a muscle back portion with the cavity not visible from the exterior of a club and having no visible cavity thereon, a cavity vertically spaced from the sole, a substantial portion of the extra mass portion being positioned below the cavity, and an elastomer at least substantially filling a cavity.

Elkins (4,128,242) discloses a head having a blade surface and a muscle back surface (Fig. 7), a cavity (53) disposed in a muscle back portion with a cavity (Figs. 7-8), a cavity vertically spaced from a sole (Fig. 7) and the cavity not visible from the exterior of a club in the form of being able to pour a filler into the cavity (53) and than

Art Unit: 3711

placing a plug (55) over the cavity (Col. 12, Lns. 30-45) in order to have the moment of inertia about the center of gravity maximized by positioning weight at the heel and toe and in order to add effective loft to a head by having a center of gravity low (Col. 12, Lns. 19-67). In view of the patent of Elkins (4,128,242) it would have been obvious to modify the head of Elkins (D244,558) to have a cavity disposed in a muscle back portion with the cavity not visible from the exterior of a club and a cavity vertically spaced from the sole in order to have the moment of inertia about the center of gravity maximized by positioning weight at the heel and toe and in order to add effective loft to a head by having a center of gravity low.

Elkins (D244,558) has a lip at the back sole which one skilled in the art may define as forming a cavity on the back of the muscle back portion. Viollaz discloses a cavity not visible from an exterior of a club, a cavity vertically spaced from the sole (Figs. 4-5), a thin sole (Fig. 4), a muscle back surface being rounded and having no visible cavity thereon (Figs. 2-3), a substantial portion of the extra mass portion being positioned below the cavity in the form of the bottom cavity wall being a substantial greater thickness than the top cavity wall (Fig. 4) and a cavity substantially filled with a foamed urethane in the form of polyurethane (Col. 2, Lns. 46-50). In view of the patent of Viollaz it would have been obvious to modify the head of Elkins (D244,558) to have no lip where the muscle back surface intersection with the sole surface, and a substantial portion of the extra mass portion being positioned below the cavity in order to have a more rounded intersection where the rear surface and the sole surface intersect and as such have a head with less interaction with the ground when impacting

the back of the sole with the ground when impacting a ball on the ground and still have a weighted sole section. As such there would be a muscle back portion having no visible cavity thereon. In view of the patent of Viollaz it would have been obvious to modify the head of Elkins (D244,558) to have the cavity substantially filled with foamed polyurethane in order to provide vibration dampening to a head at impact and in order to utilize a shock absorption material placed inside heads used in the market place.

Motomiya discloses filling a sealed space with an elastic filler material such as foamed urethane and rubber (Col. 2, Lns. 14-16). In view of the patent of Motomiya it would have been obvious to modify the head of Elkins (D244,558) to have a polyurethane being a high rebound foamed elastomer filling a cavity in order to utilize a type of urethane shock absorption material used in the market place inserted in cavities of heads.

Response to Arguments

6. The argument that Viollaz does not disclose a substantial portion of the extra mass portion being positioned below the cavity is disagreed with. Viollaz discloses bottom cavity wall being a substantially greater in thickness than the top cavity wall (Fig. 4). The arguments that Elkins '558 does not disclose a thin sole and the distance between the front surface and the rear surface adjacent the sole is less than the distance between the front surface adjacent the top edge are disagreed with. Elkins '558 discloses the lower edge ends with a point when the face is in the vertical plane

(Fig. 6) just as applicant's head shows (Fig. 5). If this is not the orientation the claim is referring to the examiner does not know what orientations is being mentioned. Because when the sole is flat on a horizontal plane for applicant's head the distance between the front surface and the rear surface adjacent the sole is greater than the distance between the front surface adjacent the top edge (Fig. 5).

7. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Conclusion


Art Unit: 3711

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen L. Blau whose telephone number is (571) 272-4406. The examiner can normally be reached on Mon - Fri 10:00 AM - 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eugene Kim can be reached on (571) 272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Slb/14 August 2006



STEPHEN BLAU
PRIMARY EXAMINER